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FREE SPEECH COALITION, INC., et al.) **CASE NO. 2:09-4607**
)
 Plaintiffs,) **JUDGE MICHAEL M. BAYLSON**
)
 -vs-)
)
THE HONORABLE ERIC H. HOLDER, JR.,) **AGREED ORDER**
 Attorney General,)
)
 Defendant.)
)

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FILED

AUG 16 2012

MICHAEL KUNZ, Clerk
By _____ Dep. Clerk

On July 27, 2010, this Court granted Defendant's motion to dismiss the complaint under Rule 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure and dismissed Plaintiffs' complaint with prejudice. (Doc. No. 66, 67). It also denied Plaintiffs' motion for leave to amend the complaint.

Plaintiffs appealed. The United States Court of Appeals for the Third Circuit vacated this Court's order of dismissal to the extent that it dismissed Count 1 in its entirety, Count 4 in its entirety, and Count 6 to the extent that it asserts a right to injunctive relief for violations of the First or Fourth Amendments. (Doc. No. 79). Additionally, the Court of Appeals vacated this Court's denial of Plaintiffs' motion for leave to amend the complaint. It affirmed this Court's decision in all other respects. On June 29, 2012, this Court, in conformance with the mandate of the Court of Appeals, granted Plaintiffs' motion for leave to amend the complaint. (Doc. No. 83). It further directed the parties to discuss and propose an agreed order concerning the impact of the affirmance


of this Court's dismissal of certain counts of the complaint on the matters before this Court on remand.

It is hereby ordered and decreed:

1. The Court of Appeals having vacated this Court's order to the extent that it dismissed Counts 1 and 4 in their entirety, and dismissed Count 6 to the extent that it asserts a right to injunctive relief under the First or Fourth Amendments, Counts 1 and 4, and Count 6 to the extent that it asserts a right to injunctive relief under the First or Fourth Amendment, are before this Court on remand for further proceedings consistent with the Court of Appeals' opinion and order. In light of the Court of Appeals' decision as described above, the following counts are before this Court as to all plaintiffs on remand for further proceedings consistent with the Court of Appeals' opinion and order: Count 1, insofar as it asserts facial and as-applied First Amendment claims as set forth in ¶¶ 61(A), (B), (F), and (H) of plaintiffs' Amended Complaint; Count 4; and Count 6 to the extent that it asserts a right to injunctive relief for violations of the First Amendment or the Fourth Amendment.

2. The Court of Appeals having affirmed this Court's dismissal of those portions of Count 1 that alleged that strict scrutiny applied to plaintiffs' First Amendment challenge; and that 18 U.S.C. §§ 2257 and 2257A and their implementing regulations unconstitutionally suppressed anonymous speech, imposed a prior restraint on protected expression, unconstitutionally imposed strict liability for failing to create and maintain the requisite records, and were unconstitutionally vague; as well as Counts 2, 3, 5, and that portion of Count 6 asserting a right to injunctive relief other than under the First or Fourth Amendments, those counts and claims are not before this Court on remand and Defendant will not be required to respond to those counts and claims in its answer. Plaintiffs, however, expressly reserve the right to pursue their rights to relief under those counts and

claims in future appellate proceedings.


HON. MICHAEL M. BAYLSON

August 15, 2012

AGREED:

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ENTERED
AUG 16 2012
CLERK OF COURT

8/16/12 mailed
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CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2012, the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ J. Michael Murray

J. MICHAEL MURRAY (0019626)

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One of the Attorneys for Plaintiffs